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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 REVEREND DR. KAMAL K. ROY,

Case No. 08-01626-MJP-JPD

11 Plaintiff,

12 REPORT AND RECOMMENDATION

v.

13 U.S. GOVERNMENT et al.,

14 Defendants.

16
17 Plaintiff Reverend Dr. Kamal K. Roy, proceeding *pro se*, has filed an application to
18 proceed *in forma pauperis* (“IFP”) in this proposed civil rights lawsuit against “To Whom it
19 May Govern in USA & World, etc.” Dkt. Nos. 1, 1-4. After careful consideration of
20 Plaintiff’s IFP application, proposed complaint, supporting materials, the governing law and
21 the balance of the record, the Court recommends that his case be DISMISSED without
22 prejudice and his IFP application DENIED as moot.

23 Pursuant to 28 U.S.C. § 1915(e)(2)(B), this Court may deny an application to proceed
24 IFP and should dismiss a complaint if it is frivolous or fails to state a claim upon which relief
25 can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(ii); *O’Loughlin v. Doe*, 920 F.2d 614, 616
26 (9th Cir. 1990). An action is frivolous if “it lacks an arguable basis either in law or in fact.”

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1 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The fact that plaintiff is not a prisoner does not
2 change this analysis. *See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (“[S]ection
3 1915(e) applies to all in forma pauperis complaints, not just those filed by prisoners.”).

4 In order to state a claim for relief under 42 U.S.C. § 1983, a plaintiff must assert that he
5 suffered a violation of rights protected by the U.S. Constitution or created by federal statute,
6 and that the violation was proximately caused by a person acting under color of state or federal
7 law. *See Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991).

8 Plaintiff has failed to do so here. Indeed, his proposed complaint is incomprehensible.
9 It is a 23-page combination of handwritten pages and copies of several typewritten documents.
10 Each document contains handwritten comments scrawled around the borders of the page or
11 between paragraphs, making many pages impossible to read. *See* Dkt. No. 1-2. In sum, the
12 proposed complaint sets forth a string of rambling statements that: (a) fail to specifically
13 identify what federal statutory or constitutional rights were allegedly violated; and (b) fail to
14 show how the defendants personally participated in depriving plaintiff of his federal or
15 constitutional rights. Additionally, Plaintiff has failed to name a proper defendant subject to
16 suit under § 1983. Because this action appears frivolous and fails to state a claim upon which
17 relief can be granted, it is subject to dismissal under 28 U.S.C. § 1915(e)(2)(B) and Federal
18 Rule of Civil Procedure 12(b)(6).

19 The Court notes that this is not the first time that plaintiff has lodged a frivolous
20 complaint in this district. *See, e.g., Roy v. Federal Election*, C08-1480-RSL, *Roy v. McCain*,
21 C08-919-TSZ, *Roy v. All State Bd. of Elections*, C07-1419-RSL; *Roy v. Roberts et al.*, C07-
22 1157-TSZ; *Roy v. Bush et al.*, C07-484-JCC. To this end, the Court advises Plaintiff of his
23 responsibility to research the facts and law before filing a complaint in order to determine
24 whether his claim for relief is frivolous. If plaintiff files another frivolous action, he may be
25 sanctioned. *See* Fed. R. Civ. P. 11. **If plaintiff continues to file numerous frivolous or**

malicious complaints, the Court may bar him from proceeding in this court. See *DeLong v. Hennessey*, 912 F.2d 1144, 1146-48 (9th Cir. 1990) (discussing bar order requirements).

3 Accordingly, the Court recommends that Plaintiff's case be DISMISSED without
4 prejudice and his IFP application DENIED as moot. 28 U.S.C. § 1915(e)(2)(B). A proposed
5 Order accompanies this Report and Recommendation.

6 DATED this 25th day of November, 2008.

James P. Donohue

JAMES P. DONOHUE
United States Magistrate Judge